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RC-8060

|  |  |                                       |
|--|--|---------------------------------------|
| <hr/>                                  |  | ) UNITED STATES DISTRICT COURT        |
| DR. FADI CHAABAN; DR. SABINO R. TORRE; |  | ) DISTRICT OF NEW JERSEY              |
| DR. CONSTANTINOS A. COSTEAS and        |  | )                                     |
| DR. ANTHONY J. CASELLA, as Trustees of |  | ) Civil Action                        |
| Diagnostic & Clinical Cardiology, P.A. |  | )                                     |
| Profit Sharing Plan,                   |  | ) Case No. 2:08-cv-1567 (GEB - MCA)   |
|  |  | )                                     |
| Plaintiffs,                            |  | ) RETURN DATE: To be Set by the Court |
|  |  | )                                     |
| v.                                     |  | )                                     |
|  |  | ) DECLARATION OF ROBERT J.            |
| DR. MARIO A. CRISCITO,                 |  | ) CONROY IN OPPOSITION TO             |
|  |  | ) PLAINTIFFS' MOTION FOR              |
| Defendant.                             |  | ) SUMMARY JUDGMENT,                   |
| <hr/>                                  |  | ) PURSUANT TO FED. R. CIV. P. 56      |

**I, ROBERT J. CONROY**, of full age, do hereby declare:

1. I am an Attorney-at-Law of the State of New Jersey, and a member of the Bar of the United States District Court for the District of New Jersey, and a principal of the law firm of Kern Augustine Conroy & Schoppmann, P.C., counsel for the defendant in the above-captioned matter, Mario A. Criscito, M.D. ("Dr. Criscito"). I make this certification in opposition to the plaintiffs' motion for summary judgment, pursuant to Fed. R. Civ. P. 56.

2. Appended hereto as Exhibit "A" is a true copy of an extract from the transcript of the deposition of Brian Warnock, which took place on June 16, 2009.

3. Appended hereto as Exhibit "B" is a true copy of a document marked as Exhibit "Warnock-1" at the deposition of Brian Warnock, which took place on June 16, 2009.

4. Appended hereto as Exhibit “C” is a true copy of a document marked as Exhibit “Warnock-2” at the deposition of Brian Warnock, which took place on June 16, 2009.

5. Appended hereto as Exhibit “D” is a true copy of a document marked as Exhibit “Warnock-3” at the deposition of Brian Warnock, which took place on June 16, 2009.

6. Appended hereto as Exhibit “E” is a true copy of a brokerage statement for the Smith Barney Account for October, 2000, the earliest time for which the defendant possesses a detailed statement of the Smith Barney Account.

7. Appended hereto as Exhibit “F” is a true copy of an extract from the transcript of the deposition of the plaintiffs’ expert, Scott M. Feit, CPC, CPA, QPA, QKA, which took place on July 21, 2010.

8. Appended hereto as Exhibit “G” is a true copy of an extract from the transcript of the deposition of the plaintiff, Mario Criscito, M.D., which took place on December 4, 2009.

9. Appended hereto as Exhibit “H” is a true copy of the transcript of the hearing before the Honorable Madeline Cox Arleo, U.S.M.J. on the defendant’s motion for leave to file a third-party complaint against the Plan’s third-party administrator, American Pension Corporation (“APC”), which took place on June 21, 2010.

10. Appended hereto as Exhibit “I” is a true copy of an extract from the transcript of the deposition of Brian Warnock, which took place on July 15, 2009.

11. Appended hereto as Exhibit “J” is a true copy of an extract from the transcript of the deposition of Anthony Casella, M.D., which took place on May 21, 2009.

12. Appended hereto as Exhibit “K” is a true copy of an extract from the transcript of the deposition of Anthony Casella, M.D., which took place on June 22, 2009.

13. I declare under penalty of perjury that the foregoing statements made by me are true and correct.

/ s / Robert J. Conroy

Robert J. Conroy

Dated: Bridgewater, New Jersey  
October 20, 2010